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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,528	07/25/2003	Thomas B. Gallagher	5939.00002	2918
29747	7590	05/10/2006	EXAMINER	
GREENBERG TRAUIG 3773 HOWARD HUGHES PARKWAY SUITE 500 NORTH LAS VEGAS, NV 89109			RADA, ALEX P	
			ART UNIT	PAPER NUMBER
			3712	

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/627,528

Applicant(s)

GALLAGHER, THOMAS B.

Examiner

Alex P. Rada

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/25/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-3, 5-6, 9-12 and 14-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Webb (US Pub. 2003/0057648).
3. Williams discloses the following:

One or more decks of playing cards (paragraph 0011), a gaming table having a layout depicting a player primary wager area (figure 1) and a player side wager area (items 12 and 14 of figure 1), a primary wager associated with the primary wager area (item 12 of figure 1), the primary wager dependent upon a value of a player's hand exceeding a value of a dealer's hand (summary), and a side wager associated with the side wager area (item 3 of

figure 1), the side wager dependent upon a poker ranking defined by two or more of the player cards (summary) as recited in claim 1.

The one or more players may draw a maximum of five cards, in which the examiner interprets the traditional play of blackjack to be an equivalent to the one or more players may draw a maximum of five cards as recited in claims 2 and 19.

A player loses the primary wager if the player's cards exceed a maximum value, in which the examiner interprets the traditional play of blackjack to be an equivalent to a player losing the primary wager if the player's cards exceed a maximum value as recited in claims 3 and 20.

The poker ranking is defined by a player's first three cards, in which the examiner interprets the three card of item 14 of figure 1 to be an equivalent to the poker ranking is defined by a player's first three cards as recited in claims 5 and 22.

The winning poker rankings are selected from the group consisting of flushes, straights, straight flushes, and threes of a kind (paragraphs 0023-0024) as recited in claim 6.

A display device for displaying the value of each player hand and the dealer hand as recited in claim 9. The Webb reference inherently is capable of providing a display for displaying the values of the player and the dealer hands (paragraph 0042).

A means for visually indicating the value of each player hand and the dealer hand as recited in claim 11. The Webb reference inherently is capable

of providing display to indicate the value of a player's and dealer hands (paragraph 0042).

Offering one or more players a primary wager and a side wager (figure 1), dealing one or more players and a dealer one or more playing cards (paragraphs 0008-0015), allowing the players to draw one or more cards, in which the examiner interprets the traditional rules of blackjack to be an equivalent to allowing the players to drawing one or more cards, allowing the dealer to draw cards until a value of the dealer's cards exceeds a pre-established minimum value, in which the examiner interprets the traditional rules of blackjack to be an equivalent to allowing a dealer to draw cards until a value of the dealer's cards exceeds a pre-established minimum value, resolving each player's side wager wherein the side wager is dependent upon a poker ranking defined by two or more of each player's cards (paragraphs 0008-0015), and resolving each player's primary wager wherein the primary wager is dependent upon a value of each player's hand exceeding a value of a dealers' hand, in which the examine interprets the traditional rules of blackjack to be an equivalent to resolving each player's primary wager wherein the primary wager is dependent upon a value of each player's hand exceeding a value of a dealers' hand (paragraphs 0008-0015) as recited in claim 12.

The poker ranking being defined by a player's first three cards (summary) as recited in claim 14.

The dealer calculating a value of each player's hand and the dealer's hand and causing the values to be electronically displayed as recited in claim 15. The Webb reference inherently is capable of providing a calculating means to calculate and display the player's value on a display (paragraph 0042).

The value of each player's hand and the dealer's hand is input by the dealer via a dealer interface in communication with the display device as recited in claims 10 and 16. The Webb reference inherently is capable of having a device in communication with a display device (paragraph 0042).

The dealer calculating a value of each player's hand and the dealer's hand and causing the values to be identified on or near a table layout (figure 1) as recited in claim 17.

Means for accepting a player's primary wager and side wager, a processor in communication with a random number generator and display device (paragraph 0042), the processor for causing the display device to display two or more randomly generated player cards and two or more randomly generated dealer cards (paragraphs 0008-0015), selection means for the player to draw up to five cards which are each displayed on the display device, in which the examiner interprets the traditional rules of blackjack to be an equivalent to a selection means for the player to draw up to five cards, and the processor further for causing the display device to display dealer cards until a value of the dealer's cards exceeds a pre-established dealer minimum value, in which the examiner interprets the traditional rules of

blackjack to be an equivalent to the displaying the dealer cards until a valued of the cards exceeds a pre-established dealer minimum value, the processor further for resolving the side wager wherein the side wager is dependent upon a poker ranking defined by two or more of the player's cards (paragraphs 0008-0015), the processor further resolving the primary wager wherein the primary wager is dependent upon a value of a player's hand exceeding a value of a dealer's hand, in which the examiner interprets the traditional rules of blackjack to be an equivalent to resolving the primary wager wherein the primary wager is dependent upon a valued of a player's hand exceeding a value of the a dealer's hand (paragraphs 0008-0015) as recited in claim 18. The Webb reference inherently is capable of providing a video type gaming machine of the table game with the proper components to implement the game (paragraph 42).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 7-8, 13 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webb (US Pub. 2003/0057648).

6. Webb discloses the following:

One or more decks of playing cards (paragraph 0011), a gaming table having a layout depicting a player primary wager area and a player side wager area (figure 1), a primary wager associated with the primary wager area (item 12 of figure 1), the primary wager dependent upon a value of a player's hand exceeding a value of a dealer's hand (summary), a side wager associated with the side wager area (item 14 of figure 1), the side wager dependent upon a poker ranking defined by two or more of the player cards (summary), and the primary wager being lost if either the value of the player's hand exceeds a predetermined value or the value of the dealer's hand exceeds the value of the player's hand with neither the value of the player's hand or the value of the dealer's hand exceeding the predetermined value, the primary wager being won if either the value of the player's hand exceeds the value of the dealer's hand with neither the value of the player's hand or the value of the dealer's hand exceeding the predetermined value or the value of the dealer's hand exceeds the predetermined value and the value of the player's hand does not exceed the predetermined value and the side wager being won if the poker ranking is a straight, flush, straight flush or three of a kind (summary) as recited in claim 24.

Offering a primary wager and a side wager (figure 1), dealing one or more players and a dealer two or more playing cards, allowing the players to draw up to five total cards, allowing the dealer to draw cards until a value of the dealer's cards exceeds a pre-established minimum value, resolving each player's side wager wherein the side wager is dependent upon a poker ranking

defined by each player's first three cards, the dies wager being won when the poker ranking is either a straight, a flush, a straight flush or three of a kind, and resolving the primary wager wherein the primary wager is lost if either the value of the player's hand exceeds a predetermined value or the value of the dealer's hand exceeds the value of the player's hand with neither the value of the player's hand or the value of the dealer's hand exceeding the predetermined value, the primary wager being won if either the value of the player's hand exceeds the value of the dealer's hand with neither the value of the player's hand or the value of the dealer's hand exceeding the predetermined value or the value of the dealer's hand exceeds the predetermined value and the value of the player's hand does not exceed the predetermined value

Webb does not expressly disclose the following:

The maximum value is thirty-three as recited in claim 4.

The dealer must draw a card as long as the dealer's cards have a value of twenty-five or less as recited in claims 7 and 23.

The dealer may no longer draw cards if the dealer's cards have a value of twenty-six or more as recited in claim 8.

The pre-established minimum value is twenty-five as recited in claim 13.

The primary wager of a player being lost if the player's hand exceeds thirty-three and the primary wager being won if the value of the player's hand exceeds the value of the dealer's hand neither the value of the player's hand

or the value of the dealer's hand exceeding thirty-three or the value of the dealer's hand exceeds thirty-three and the value of the player's hand does not exceed thirty-three as recited in claims 24 and 25.

Webb does however teach wagering game wherein the traditional rules of blackjack are applied. A player's primary wager would be lost if the player's hand exceeds twenty-one and the primary wager being won if the value of the player's hand exceeds the value of the dealer's hand neither the value of the player's hand or the value of the dealer's hand exceeding twenty-one or the value of the dealer's hand exceeds twenty-one and the value of the player's hand does not exceed twenty-one.

The underlying game of applicant's claimed invention is the same as the cited prior art. The underlying game of the claimed invention discloses a primary and secondary wager, wherein the primary wager is lost if the player's hand exceeds thirty-three and the primary wager being won if the value of the player's hand exceeds the value of the dealer's hand neither the value of the player's hand or the value of the dealer's hand exceeding thirty-three or the value of the dealer's hand exceeds thirty-three, the value of the player's hand does not exceed thirty-three, and the dealer draws cards if the dealer's card value is less than twenty-six and no longer draws cards if the dealer's value of the cards are above twenty-six. The underlying game of cited prior art discloses a primary and secondary wager, wherein the primary wager being lost if the player's hand exceeds twenty-one and the primary wager being won if the value of the player's hand exceeds the value of the

dealer's hand neither the value of the player's hand or the value of the dealer's hand exceeding twenty-one or the value of the dealer's hand exceeds twenty-one and the value of the player's hand does not exceed twenty-one and dealer stands on seventeen and draws on sixteen. The only difference between the underlying game of applicant's claimed invention and cited prior art is the predetermined number being changed from twenty-one to thirty-three and the stand and draw values from sixteen and seventeen to twenty-five and twenty-six.

At the time the invention was made it would have been obvious design choice to a person of ordinary skill in the art to change the predetermined numbers from twenty-one to thirty-three and the stand and draw values from sixteen and seventeen to twenty-five and twenty-six, to provide a new and interesting game that would enhance a player's anticipation and enjoyment.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Williams (US Pub. 2003/0184015) discloses a blackjack with poker type game.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 571-272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

Art Unit: 3712

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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TC3700